

COMMITTEE ON COUNTIES, MUNICIPALITIES AND MILITARY AFFAIRS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2194

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Title 13, Arizona Revised Statutes, is amended by adding chapter 46, to read:

CHAPTER 46

MILITARY RESERVATIONS AND FACILITIES SECURITY

13-5001. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ENTER" MEANS THE INTRUSION OF ANY PART OF ANY INSTRUMENT OR ANY PART OF A PERSON'S BODY INSIDE OF A MILITARY RESERVATION OR FACILITY OR A STRUCTURE OR FENCED YARD OF A MILITARY RESERVATION OR FACILITY.

2. "ENTERING OR REMAINING UNLAWFULLY" MEANS AN ACT BY A PERSON WHO ENTERS OR REMAINS IN OR ON A MILITARY RESERVATION OR FACILITY OR A STRUCTURE OR FENCED YARD OF A MILITARY RESERVATION OR FACILITY IF THAT PERSON'S INTENT FOR ENTERING OR REMAINING IS NOT AUTHORIZED OR OTHERWISE PRIVILEGED.

3. "MILITARY RESERVATION OR FACILITY" MEANS ANY LAND OR FACILITY THAT IS OWNED OR LEASED BY OR DESIGNATED TO A BRANCH OF THE UNITED STATES ARMED FORCES, INCLUDING THE ARIZONA NATIONAL GUARD.

4. "STRUCTURE OR FENCED YARD" MEANS ANY STRUCTURE, FENCED YARD, WALL, BUILDING OR OTHER SIMILAR BARRIER OR ANY COMBINATION OF STRUCTURES, FENCED YARDS, WALLS, BUILDINGS OR OTHER BARRIERS THAT SURROUNDS A MILITARY RESERVATION OR FACILITY AND THAT IS POSTED WITH SIGNAGE INDICATING IT IS A FELONY TO TRESPASS.

13-5002. Criminal trespass on military reservations and facilities; classification

A. A PERSON COMMITS CRIMINAL TRESPASS ON A MILITARY RESERVATION OR FACILITY BY KNOWINGLY EITHER:

1. ENTERING OR REMAINING UNLAWFULLY IN OR ON A MILITARY RESERVATION OR FACILITY.

2. ENTERING OR REMAINING UNLAWFULLY WITHIN A STRUCTURE OR FENCED YARD OF A MILITARY RESERVATION OR FACILITY.

B. CRIMINAL TRESPASS ON A MILITARY RESERVATION OR FACILITY IS A CLASS 6 FELONY.

1           Sec. 2. Section 26-102, Arizona Revised Statutes, is amended to read:

2           26-102. Powers and duties of the adjutant general

3           A. The adjutant general shall serve as head of the department. The  
4 governor as commander in chief shall administer and control the national  
5 guard, and the adjutant general is responsible to the governor for execution  
6 of all orders relating to the militia, organization, activation,  
7 reactivation, inactivation and allocation of units, recruiting of personnel,  
8 public relations and discipline and training of the national guard and those  
9 members of the militia inducted into the service of this state as provided in  
10 this chapter. The adjutant general shall act as military chief of staff to  
11 the governor and chief of all branches of the militia. The adjutant general  
12 may belong to the national association and other organizations for the  
13 betterment of the national guard, subscribe to and obtain periodicals,  
14 literature and magazines of such other organizations and pay dues and charges  
15 from monies of this state appropriated for that purpose. Except for the  
16 authority expressly reserved for the governor, the adjutant general is  
17 responsible for emergency management and all emergency activities are subject  
18 to the approval of the adjutant general.

19           B. The adjutant general, as the military chief of staff, shall:

20           1. Act as military advisor to the governor and perform, as the  
21 governor prescribes, military duties not otherwise designated by law.

22           2. Adopt methods of administration for the national guard that are not  
23 inconsistent with laws and regulations of the United States department of  
24 defense or any subdivision of the United States department of defense.

25           3. Supervise and direct the organization, regulation, instruction and  
26 other activities of the national guard.

27           4. Attest and record all commissions issued by the governor and  
28 maintain a register of all commissioned personnel.

29           5. Keep a record of all orders and regulations pertaining to the  
30 national guard and all other writings and papers relating to reports and  
31 returns of units comprising the national guard and militia.

32           6. Superintend the preparation of returns, plans and estimates  
33 required by this state, by the department of the army, air force or navy and  
34 by the secretary of defense.

35           7. Control the use of and care for, preserve and maintain all military  
36 property belonging to or issued to this state and pay from monies

1 appropriated by the legislature for these purposes the necessary expenses for  
2 labor and material incurred in the repair of military property.

3 8. Dispose of unserviceable military property belonging to this state,  
4 account for the proceeds and transmit them to the morale, welfare and  
5 recreational fund established by section 26-153.

6 9. Authenticate with the seal of the office of the adjutant general  
7 all orders and copies of orders issued by the adjutant general's office. An  
8 authenticated copy has the same force and effect as the original.

9 10. Present to the governor before each regular session of the  
10 legislature, or as otherwise required, an estimate of the financial  
11 requirements for state monies for operation of the department and the  
12 national guard during the next fiscal year.

13 C. The adjutant general, as head of the department, shall:

14 1. Be the administrator of the department.

15 2. Coordinate the functions of the divisions and offices of the  
16 department.

17 3. Appoint, suspend, demote, promote or dismiss employees of the  
18 department who are subject to title 41, chapter 4, article 5 and employees  
19 who are exempt from state personnel administration. The adjutant general may  
20 delegate this authority.

21 4. Appoint an auditor for the department to conduct periodic financial  
22 and compliance audits of each division and office in the department and  
23 perform such other duties as prescribed by law. At least annually the  
24 auditor shall audit accounts that are open for more than twelve months. The  
25 auditor shall determine within the department compliance with purchase and  
26 bidding procedures prescribed by law.

27 5. Adopt, with the approval of the governor, rules necessary for the  
28 operation of the department.

29 6. Establish and administer accounts for federal, state or other  
30 monies made available to carry out the functions of the department.

31 7. As deemed necessary, appoint to peace officer status members of the  
32 Arizona national guard who have been awarded a United States army military  
33 occupational specialty as military policeman or a United States air force  
34 specialty code as security policeman. ~~Prior to~~ BEFORE appointment as peace  
35 officers, such individuals must successfully complete a course of study to be  
36 prescribed by the Arizona peace officer standards and training board.  
37 Individuals appointed as peace officers pursuant to this section, when

1 performing duties at facilities or on land operated or controlled by or under  
2 the jurisdiction of the adjutant general, have all the powers, privileges and  
3 immunities of peace officers provided by law. Individuals appointed as peace  
4 officers pursuant to this section are not eligible to participate in funding  
5 provided by the peace officers' training fund established by section 41-1825  
6 or in the public safety personnel retirement system.

7 8. Establish, abolish or reorganize the positions or organizational  
8 structure within the department, subject to legislative appropriation, if, in  
9 the adjutant general's judgment, the modification would make the operation of  
10 the department more efficient, effective or economical.

11 9. Establish an educational program for persons who have previously  
12 dropped out of high school and who are under twenty years of age but who are  
13 not adjudicated delinquent. The educational program shall be designated  
14 "project challenge", and the program shall be conducted by the national guard  
15 of Arizona in a paramilitary environment. The goal of the educational  
16 program is to provide persons enrolled in the program with the knowledge and  
17 skills necessary to become productive citizens and to obtain a general  
18 equivalency diploma. In addition to monies appropriated for the program, the  
19 adjutant general may accept and spend monies from any other lawful public or  
20 private source. ~~Each employee of the program who has contact with a program~~  
21 ~~participant must have a valid fingerprint clearance card issued pursuant to~~  
22 ~~title 41, chapter 12, article 3.1 or provide to the department documentation~~  
23 ~~of the person's application for a fingerprint clearance card. The employee~~  
24 ~~must certify on forms that are provided by the department and that are~~  
25 ~~notarized whether the employee is awaiting trial on or has ever been~~  
26 ~~convicted of any of the criminal offenses listed in section 41-1758.03,~~  
27 ~~subsections B and C in this state or similar offenses in another state or~~  
28 ~~jurisdiction. If a person who is hired by the department as a project~~  
29 ~~challenge worker does not have a fingerprint clearance card at the time of~~  
30 ~~employment, the person must apply for a fingerprint clearance card on or~~  
31 ~~before the seventh day following the date the person was hired.~~

32 10. Submit to the governor annually by October 1 a report for the  
33 department including the strength and condition of the national guard, the  
34 business transactions of the department, a detailed statement of expenditures  
35 for all military and civilian purposes and the disposition of all military  
36 and civilian property on hand or issued.

37 D. The adjutant general, with the approval of the governor, may:

1           1. Enter into contracts with individuals, this state, political  
2 subdivisions of this state or the federal government and its agencies for the  
3 purchase, acquisition, rental or lease of lands, buildings or military  
4 materiel and take title in the name of this state for the establishment and  
5 maintenance of armories, subject to legislative appropriation for these  
6 purposes.

7           2. Procure and contract for procurement of equipment and its issuance  
8 to members of the militia inducted into the service of this state.

9           3. Enter into agreements and plans with the state universities,  
10 community colleges or any educational institution supported by federal or  
11 state monies for promotion of the best interests of the national guard and  
12 military training of students of the institutions.

13           4. Lease property acquired under this chapter for any public purpose  
14 for a period of one year that is renewable.

15           5. Convey for any public purpose in the name of this state easements  
16 on real property acquired under this chapter.

17           6. Enter into contracts or agreements with the federal government that  
18 are deemed to be in the best interest of this state and the national guard.

19           7. Delegate the powers and duties in this section.

20           8. ADOPT METHODS OF SECURITY FOR THE NATIONAL GUARD THAT ARE  
21 CONSISTENT WITH THE LAWS, REGULATIONS OR DIRECTIVES OF THE UNITED STATES  
22 DEPARTMENT OF DEFENSE OR ANY SUBDIVISION OF THE UNITED STATES DEPARTMENT OF  
23 DEFENSE.

24           Sec. 3. Title 26, chapter 1, article 1, Arizona Revised Statutes, is  
25 amended by adding section 26-103, to read:

26           26-103. Department of emergency and military affairs  
27                   employees; fingerprints; exemptions; definition

28           A. EXCEPT FOR MEMBERS OF THE NATIONAL GUARD WHO HAVE RECEIVED SECURITY  
29 CLEARANCE PURSUANT TO NATIONAL GUARD LAWS AND REGULATIONS, EMPLOYEES SHALL  
30 SUBMIT THE FORM PRESCRIBED IN SUBSECTION B OF THIS SECTION TO THE DEPARTMENT  
31 AND SHALL HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE  
32 41, CHAPTER 12, ARTICLE 3.1 OR SHALL APPLY FOR A FINGERPRINT CLEARANCE CARD  
33 WITHIN SEVEN WORKING DAYS OF EMPLOYMENT.

34           B. EMPLOYEES SHALL CERTIFY ON FORMS THAT ARE PROVIDED BY THE  
35 DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS AND NOTARIZED THAT THEY ARE NOT  
36 AWAITING TRIAL ON OR HAVE NEVER BEEN CONVICTED OF OR ADMITTED IN OPEN COURT  
37 OR PURSUANT TO A PLEA AGREEMENT COMMITTING ANY OF THE OFFENSES LISTED IN

1 SECTION 41-1758.03, SUBSECTIONS B AND C IN THIS STATE OR SIMILAR OFFENSES IN  
2 ANOTHER STATE OR JURISDICTION.

3 C. THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS SHALL NOT ALLOW A  
4 PERSON TO BE EMPLOYED IN ANY NATIONAL GUARD RESERVATION OR FACILITY IN ANY  
5 CAPACITY IF THE PERSON HAS BEEN DENIED A FINGERPRINT CLEARANCE CARD PURSUANT  
6 TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR HAS NOT RECEIVED AN INTERIM APPROVAL  
7 FROM THE BOARD OF FINGERPRINTING PURSUANT TO SECTION 41-619.55, SUBSECTION I.

8 D. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE" MEANS ANY PERSON WHO  
9 WORKS FOR THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS OR ANY SUBDIVISION  
10 OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS, INCLUDING PROJECT  
11 CHALLENGE.

12 Sec. 4. Section 41-619.51, Arizona Revised Statutes, is amended to  
13 read:

14 41-619.51. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Agency" means the supreme court, the department of economic  
17 security, the department of education, the department of health services, the  
18 department of juvenile corrections, the department of emergency and military  
19 affairs or the board of examiners of nursing care institution administrators  
20 and assisted living facility managers.

21 2. "Board" means the board of fingerprinting.

22 3. "Expedited review" means an examination, in accordance with board  
23 rule, of the documents an applicant submits by the board or its hearing  
24 officer without the applicant being present.

25 4. "Good cause exception" means the issuance of a fingerprint  
26 clearance card to an employee pursuant to section 41-619.55.

27 5. "Person" means a person who is required to be fingerprinted  
28 pursuant to any of the following:

29 (a) Section 8-105.

30 (b) Section 8-322.

31 (c) Section 8-509.

32 (d) Section 8-802.

33 (e) Section 15-183.

34 (f) Section 15-534.

35 (g) Section 15-1330.

36 (h) Section 15-1881.

37 (i) Section ~~26-102~~ 26-103.

- (j) Section 36-411.
- (k) Section 36-425.03.
- (l) Section 36-446.04.
- (m) Section 36-594.01.
- (n) Section 36-594.02.
- (o) Section 36-882.
- (p) Section 36-883.02.
- (q) Section 36-897.01.
- (r) Section 36-897.03.
- (s) Section 36-3008.
- (t) Section 41-1964.
- (u) Section 41-1967.01.
- (v) Section 41-1968.
- (w) Section 41-1969.
- (x) Section 41-2814.
- (y) Section 46-141, subsection A.
- (z) Section 46-321.

Sec. 5. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

4. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

- (a) Section 8-105.
- (b) Section 8-322.
- (c) Section 8-509.
- (d) Section 8-802.
- (e) Section 15-183.
- (f) Section 15-534.

- 1 (g) Section 15-1330.  
2 (h) Section 15-1881.  
3 (i) Section ~~26-102~~ 26-103.  
4 (j) Section 36-411.  
5 (k) Section 36-425.03.  
6 (l) Section 36-446.04.  
7 (m) Section 36-594.01.  
8 (n) Section 36-594.02.  
9 (o) Section 36-882.  
10 (p) Section 36-883.02.  
11 (q) Section 36-897.01.  
12 (r) Section 36-897.03.  
13 (s) Section 36-3008.  
14 (t) Section 41-1964.  
15 (u) Section 41-1967.01.  
16 (v) Section 41-1968.  
17 (w) Section 41-1969.  
18 (x) Section 41-2814.  
19 (y) Section 46-141, subsection A.  
20 (z) Section 46-321.  
21 5. "Vulnerable adult" has the same meaning prescribed in section  
22 13-3623.  
23 Sec. 6. Section 41-1758.01, Arizona Revised Statutes, is amended to  
24 read:  
25 41-1758.01. Fingerprinting division; duties  
26 The fingerprinting division is established in the department of public  
27 safety and shall:  
28 1. Conduct fingerprint background checks for persons and applicants  
29 who are seeking employment with licensees, contract providers and state  
30 agencies or seeking employment or educational opportunities with agencies  
31 that require fingerprint background checks pursuant to sections 8-105, 8-322,  
32 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, ~~26-102~~ 26-103, 36-411,  
33 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,  
34 36-897.03, 36-3008, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814,  
35 section 46-141, subsection A and section 46-321.



1           2. Issue fingerprint clearance cards. On issuance, a fingerprint  
2 clearance card becomes the personal property of the cardholder and the  
3 cardholder shall retain possession of the fingerprint clearance card.

4           3. On submission of an application for a fingerprint clearance card,  
5 collect the fees established by the board of fingerprinting pursuant to  
6 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the  
7 monies collected in the board of fingerprinting fund.

8           4. Inform in writing each person who submits fingerprints for a  
9 fingerprint background check of the person's right to petition the board of  
10 fingerprinting for a good cause exception pursuant to section 41-1758.03.

11           5. Administer and enforce this article.

12           Sec. 7. Department of emergency and military affairs;  
13 employees; fingerprint clearance cards; current  
14 workers

15           Notwithstanding section 26-103, subsection A, Arizona Revised Statutes,  
16 as added by this act, the department of emergency and military affairs may  
17 continue to employ an employee who was hired before the effective date of  
18 this act and who does not have a fingerprint clearance card if the employee  
19 submits an application for a fingerprint clearance card within sixty days  
20 after the effective date of this act and the application is not denied.

21           Sec. 8. Emergency

22           This act is an emergency measure that is necessary to preserve the  
23 public peace, health or safety and is operative immediately as provided by  
24 law."

25 Amend title to conform

and, as so amended, it do pass

JOHN B. NELSON  
Chairman

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4:44 PM  
H:jmb